

REMARKS

The Office Action mailed November 4, 2004 has been carefully reviewed and, in view of the above amendments and following remarks, reconsideration and allowance of the application are respectfully requested.

I. Summary of Claims

Claims 1-14 are currently pending in the application, with claims 1 and 10 being independent claims. Claims 1 and 10 are amended, in accordance with the above amendments. Claims 2-9 and 11-14 are unamended and remain, therefore, in their original, as-filed condition.

Each of claims 1-14 are rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent Number 4,616,431 to Dassler.

II. The Claims Patentably Distinguish Over The Applied Prior Art

Independent claim 1 recites a method for modifying a characteristic of a sole structure for an article of footwear. The method includes various steps that include manufacturing a columnar element, forming a cavity in the sole structure, locating the columnar element within the cavity, providing inserts that are removably-received by a void in the columnar element, and supplying securing portions to the inserts and the sole to secure one of the inserts within the void. With regard to forming the cavity and locating the columnar element within the cavity, independent claim 1 recites (1) forming a cavity with an upper surface and an opposite lower surface in said sole structure, said cavity extending through a lateral side and a medial side of said footwear to form a horizontal aperture through the sole structure and (2) locating said columnar element between said upper surface and said lower surface of said cavity. Accordingly, the cavity extending through the footwear and forms an aperture in the sole structure. Independent claim 10 includes a similar recitation.

Dassler discloses an article of footwear having a midsole formed from polymer foam materials. The midsole extends longitudinally along substantially all of a length of the footwear, and the midsole extends from a medial side to a lateral side of the footwear. A plurality of holes are formed in the polymer foam of the midsole and a plurality of cylindrical members (see reference numerals 5) are located within the holes. Various damping discs are then located

within the cylindrical members in a configuration that provides the wearer with a suitable degree of hardness or compressibility.

The rejection analogizes the cylindrical members of Dassler to the columnar element of independent claims 1 and 10. In contrast with recitation of independent claims 1 and 10, the cylindrical members of Dassler are not located within a cavity having the configuration of the cavity recited in independent claims 1 and 10. More particularly, the cylindrical members are positioned within holes and contact the polymer foam material of the midsole. According to independent claims 1 and 10, however, the cavity extends through a lateral side and a medial side of said footwear to form a horizontal aperture through the sole structure, and the columnar element is located within the cavity. That is, the Dassler does not teach or suggest a cavity of the type recited in independent claims 1 and 10, and the cylindrical members of Dassler cannot, therefore, be located within a cavity of the type recited in independent claims 1 and 10.

Based upon the above discussion, the Applicants submit that independent claims 1 and 10 are allowable over Dassler, and claims 2-9 and 11-14 should be allowable for at least the same reasons.

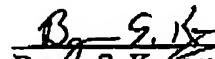
III. Conclusion

In view of the foregoing, the Applicants respectfully submit that all claims are in a condition for allowance. The Applicants respectfully request, therefore, that the rejections be withdrawn and that this application now be allowed.

This Amendment is being timely filed by facsimile transmission on December 23, 2004. Should additional fees or an extension of time be deemed necessary for consideration of this Amendment, such fees or extension are hereby requested and the Commissioner is authorized to charge deposit account number 19-0733 for the payment of the requisite fee. If anything further is desirable to place the application in even better form for allowance, the Examiner is respectfully requested to telephone the undersigned representative at (503) 425-6800.

Respectfully submitted,

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Dated: December 23, 2004